

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Earl Kentrell Carroll,)
Plaintiff,) C.A. No.: 8:09-cv-03119-RBH
)
)
vs.)
)
)
CSX Railroad Company Corporation,)
Defendant.)
)

ORDER

Plaintiff, proceeding *pro se*, filed this personal injury action on November 30, 2009. Plaintiff was a state prisoner at the time this action was filed.¹ This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge William M. Catoe, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in

¹ The court notes that it is uncertain as to whether Plaintiff is a state prisoner at this time. On February 4, 2010, the court received a notice of change of address from Plaintiff stating that all legal mail should be sent to "108 Grand Prix. C.T., Greenwood, S.C." after February 27, 2010. *See* Notice [Docket Entry 14]. While the Magistrate Judge's Report states that Plaintiff is a state prisoner, it appears that this address may be a residential address. However, regardless of whether Plaintiff remains incarcerated at this time, dismissal of his complaint is appropriate as he has failed to properly pursue this action. Plaintiff has failed to respond to Defendants' motion to dismiss or to file any response or objections to the Magistrate Judge's repeated Orders.

part, the recommendation of the Magistrate Judge or recommit the matter with instructions.

See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that this action is dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

s/R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
June 7, 2010